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QUESTIONS PRESENTED:

[I].

IS THE CIVIL RIGHT LEGISLATION OF 1866,1964, & 1991, BINDING ON FEDERAL DISTRICT COURT E.D.N.Y.AND U.S.COURT,OF APPEALS CIR. 2.,?

[II]. IS THE UNITED STATES CONSTITUTION AMENDMENT V,VII,XIII,& XIV INSUBSTANTIAL?

[III].IS FRAUD;BREACH OF CONTRACT;ANDDISCRIMINATION, IN VIOLATION FEDERAL LENDING ACT,ACTIONABLE IN FEDERAL DISTRICT COURT/ COURT OF EQUITY ?

[IV]. ARE THE PRIOR SETTLED CASES CASES,BY THE UNITED STATES SUPREME COURT BINDING,ON FEDERAL DISTRICT COURT E.D.N.Y. AND U.S. COURT OF APPEALS,CIR.2.AND PURSUANT TO FED.RULE OF CIV. PROCEEDURED RULE 56,and RULE § 144;OF 28 U.S.C.A.?

[V]. DOES BEING A PRO-SE LITIGANT FORCLOSE JUSTICE IN FEDERAL DISTRICT COURT E.D.N.Y.AND U.S.COURT OF APPEALS CIR.2 OR DOES THE RULE OF PRIMA FACIE EVIDENCE PRESENTED TO FEDERAL DISTRICT COURT THAT CONTRADICTED RESPONDENTS' SPUN AND FABRICATED EXHIBITS REVIEWABLE IN U.S.COURT OF APPEALS?

LIST OF PARTIES

The names of all respondending parties in the case whose judgement is sought to be reviewed hear appeared in the caption of the case.Except the Title Insurance T.R.W.;who was added later,for Failure to defend the illegal liens,as a Breach of Contract. For which a default judgement was also sought on June 29,1995. There legal/Attorney office is :

CARL BENNEDICT [ESQR]
T.R.W. LEGAL OFFICE,
6800 COLLEGE BLVD;SUIT 700,
OVER-LAND PARK KANSA STATE,
KANSA.66211.

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I

THE CIVIL RIGHT ACT OF 1866,1871, 1964 AND 1991 ARE BINDING ON FEDERAL DISTRICT COURTS AS EQUITY COURT . AS LEGISLATIVELY ENACTED.See PRESIDENT GRANT MESSAGE TO U.S.CONGRESS ON P.24 and SEN.SHERMAN,THAT HELD THE FEDERAL COURT ENFORCE FEDERAL LAW. ALSO JUSTICE HARLAN ,HELD THAT THE LAGISLATION WAS PASSED WAS TO ALLOW FEDERAL RIGHT IN FEDERAL COURTS at p.25. and AS CIVIL RIGHT LEGISLATION GREW OUT OF THIRTEEN AND FOURTEENTH AMEND. ALSO,AS THIS COURT HAD SETTLED,IN WILWORDINDG V. SWENSEN THAT PLAINTIFFS SHOULD SHOULD HAVE BEEN ALLOWED TO HAVE THERE CLAIMS TREATED AS CIVIL RIEIGHT CLAIMS THAT REQUIRED NO EXHAUSTION. at 25.

II

ALSO U.S.CONST AMEND. V, VII.XIII,XIV,ARE EMBEDED IN U.SCONST AMEND.XIV.WHICH ALSO FORMED THE DUE PROCESS IN CIVIL RIGHT,ACT PROSCRIBED BY ANY STATE FROM VIOLATING.CONSEQUENTLY ARE NOT INSUBTANTIAL.

III.

FRAUD, BREACH OF CONTRACT AND DISCRIMINATION HAD BEEN CONDEMNED BY THE UNITED STATES SUPREME COURT,AND AS ENACTED BY THE CONGRESS UNDER CIVIL RIGHT LEGISLATION DEBATE ESPECIALLY WHEN, DURING THE DEBATE UNDER WHICH SENATOR SHERMAN,AMONG OTHERS,SAID BECAUSE OF PASSION,THE UNITED STATES LAWS MAY NOT BE ENFORCED AND THAT UNITED STATES COURTS ENFORCE UNITED STATES LAWS. AT P.24. ALSO THIS COURT AT P.25,ABOVE,COMPARED THE CONSPIRATRIAL FRAUD TO §242 A FEDERAL CRIME,WHICH PROVIDES CRIMINAL PUNISHMENT IN WHICH COURT OF EQUITY WILL TAKE JURISDICTION.

IV.

THE RULING OF THE SUPREME COURT IS BINDING ON BOTH FEDERAL COURTS AS WELL AS ALL STATE COURTS IN THE UNITED STATES. AS IN GLUS V.BROOKLYN EASTERN DISTRICT TERMINAL,CITED AT P.16 ABOVE;UNDER WHICH THIS COURT REVERSED THE SAME COURT OF APPEALS CIR. 2. AS A RECURRING PROBLEM BUT THIS COURT ASSUMED THAT DECISI ON WOULD SETTLED ALL SIMILAR CASES. BUT THE U.S. COURT OF APPEAL FOR ONE REASON OR THE OTHER BECAME DEFIANT; UNDER WHICH THIS COURT SHOULD GRANT CERTIORARI AND REVERSE THE SAME WAY IT DID IN 1959.

V.

SINCE THIS COURT HAD SETTLED THAT BEING A PROSE LITIGANT DOESNOT MEAN THAT A COMPLAINT FILED UNDER IN FORMA PAUPERIS IS NOT AUTOMATICALLY FRIVOLOUS,at p.23. ABOVE. MOTION TO RECUSE AND STAY JUDGE ORDE

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" " "BI" In-Rem Agreement.... 7Exh.BII" RECORD ABSTRACT CORP.& "4".8. Exh."AI";"BIV"4".;"4BII"&4BIII"5,8,9.15,21 Exh."FI";"FII" & "FV"... 6,7.14, Exh."6";"EIa";"EIb" 14,15,21, Exh."8c;8;8b;8b;& 11"C.A.BII".21,22, Exh."5ai;5aii5ci,5cii;CI; UB95/81..14,15.

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PETITION FOR A WRIT OF CERTIORARI.

Petitioner,Sylvester Olu Abidekun, respectfully petitions for a writ certiorari to review the judgement of the United States Court of Appeals for,the Second Circuit.

OPENIONS BELOW.

The openion of the Court of Appeals is ordered not to be published and is reproduced in the Appendix filed herewith, ("App.") at 2a.The motion for a Re-Hearing, was also sua sponte denied without any further openion and is in "App,",1a. Presumably un-reported.The unreported,sua-sponte ORDER,of the district court in,this case are reproduced at 9a,*1;and 10a.

STATEMENT OF JURISDICTION.

The Court of Appeals entered its judgement on November 22, but was not filed by the Clerk,and postmarked until Nov. 23 which was received on the 27th,November 1996. On Decamber 4th, 1996,a timely motion for a re-hearing was filed for staying the judgement of the Cir.2, Court of Appeals; such motion was also sua-sponte denied dated Dec. 18th. abd mandate entered Dec.31'96 by the clerk,and appellant was never served until,he went to get a copy from the Clerk's office on Jan.11 1997.The Jurisdiction of this Court is invoked under 28 U.S.C.§ 1254(1).

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*1)The motion for re-hearing filed with the U.S.Court of Appeals on Dec.5, a copy was presumably sent to district judge;F. Block calling for his recusal,as previously filed on Feb. 28,1996,for which he interposed no answer at that time;but,now replied and reproduced on "App." 9a.

CONSTITUTIONAL AND STATUTORY PROVISION INVOLVED.

The United States Const. Amend.V,VII,XIII and XIV,that engendered the Civil Right Legislation of 1866,1964 and 1991,Statutes 28 U.S.C.§1343,42 USC.§ 1983,§ 1985 are set forth in pertinent part below:

U.S.Const.Amend.V,:"NO PERSONSHALL,BE HELD,...NOR BE DEPRIVED OF LIFE,LIBERTY,OR PROPERTY WITHOUT DUE PROCESS OF LAW: NOR SHALL PRIVATE PROPERTY BE TAKEN FOR PUBLIC USE WITHOUT JUST COMPENSATION."

U.S.CONST. AMEND VII,:"IN SUITS AT COMMON LAW, [illegible], WHEN THE VALUE IN CONTROVERSY SHALL EXCEED TWENTY DOLLARS, THE RIGHT OF TRIAL BY JURY SHALL BE PRESERVED..."

U.S.CONST.AMEND.XIII:"SLAVERY ABOLISHED; ENFORCEMENT. Section 1: NEITHER SLAVERY NOR INVOLUNTARY SERVITUDE EXCEPT AS A PUNISHMENT FOR A CRIME SHALL EXIST WITHIN THE UNITED STATES,OR ANY PLACE SUBJECT,TO THEIR JURISDICTION."

UNITED STATES CONST.AMEND XIV:"CITIZEN; PRIVILEGES AND IMMUNITIES;EQUAL PROTECTON.. DUE PROCESS CLAUSE OF SECTION 1:ALL PERSONS BORN OR NATURALIZED IN THE UNITED STATE,AND SUBJECT TO THE JURISDICTION THERE-OF,ARE CITIZENS OF THE UNITED STATES AND OF THE STATES WHEREIN THET RESIDE. NO STATE SHALL MAKE OR ENFORCE ANY LAW WHICH SHALL ABRIDGE THE PRIVILEGES OR IMMUNITIES OF THE CITIZEN OF THE UNITED STATES; NOR SHALL ANY STATES DEPRIVED ANY PERSON OF LIFE,LIBERTY, OR PROPERTY WITHOUT DUE PROCESS OF LAW; NOR DENY TO ANY PERSON WITHIN ITS JURISDICTION THE EQUAL PROTECTION OF THE LAWS."

UNITED STATES STATUTORY PROVISIONS: PURSUANT TO (i)28 U.S.C.§ 1343 CIVIL RIGHTS AND ELECTIVE FRANCHISE;The district court shall have the original jurisdiction of,any civil action authorized by law to be commenced by any person:
(1)To recover damages to his person or property,or because of the deprivation,of any right or privileges....by any"ACT",done in furtherance of any conspiracy mentione in § 1985 of title 42.
(2)To recover damages from any person who fail to prevent or to aid from preventing any wrongs mention in § 1985,of title 42 which he had knowlege were about to occur and power to prevent.
(3)To redress the deprevation,under color of any state law,statute,ordinance, regulation,custome,or usage,of any right,priviledge or immunity secured by the Const.of U.S.or any Act,of Congress,..person within the jurisdiction of the,U.S.

42 U.S.C.§ 1983:"Every person who,under color of any statute, ordinance...of any State or Territory,subjects or causes,to be subjected, any citizen uf the U.S.or other person within the jurisdiction thereof,to the deprivation of any rights,.secure by the Const.and laws shall be liable,to the party injured in an action,at law,suit in equity,or other proceeding,for redress."

CONSPIRACY: 42 U.S.C.§ 1985(2)(3);When any two or more persons in any state or Territory conspire,deter by force or intimidation or threat any party or witness in any court...or if two or more persons conspire for the purpose of impeding hindering,obstructing,in any manner...any citizen the equal protection of the laws or to injure him or his property..the,right of any person,or class of persons,to the equal protection of laws.Ku Klux Klan,Act. § 1985(3).USCA.Const.Amend.13,§2.and 14.

42 U.S.C.§1982: PROPERTY RIGHTS OF CITIZENS

"All citizens of the United States shall have the same right,in every State and Territory,as is enjoyed by white citizens thereof to inherit,purchase,lease,sell,hold and convey real and personal property.[R.S. § 1978.]

28 U.S.C.§ 144.BIAS OR PREJUDICIAL JUDGE.

"Whenever a party to any proceeding,in a district court makes and files a timely and sufficient affidavit that the judge before whom the matter is pending has,a personal bias or prejudice either against him or in favor of any adverse party,such judge shall proceed no further therein,but another judge shall be assigned to hear such proceeding."

"The affidavit shall state the facts,and the reasons for the belief that bias or prejudice exists,and shall be filed not less than ten days before the beginning,of the term at which the proceeding is to,be heard,or for good cause shall be shown,for failure to file within such time.A party may file only one such affidavit in any case.It shall be accompanied by a certificate of counsel of record stating that it is made in good faith."

STATEMENT OF THE CASE.

SYLVESTER OLU ABIDEKUN Purchased the Building, 959 Wyckoff Ave.from the City of New York being the highest bidder,on or about October,1981.After payment of about five thousand dollars,as down payment all the necessary paper was given,and with instruction from,HPD. supervisor Mr. Tarman,of NYC.that in order to gain access to inside the building,as it was boarded up,that I need a hammer.

So as to be able to remove the metallic fence;also to go with the papers, showing that petitioner was the new owner, because the NYC. Police will come and prevent petitioner from gaining access to inside the building.Verily indeed, petitioner was actually challenged by NYC.Police from 104 pct.

In December 1991,purchaser received a letter from the City of New Yoerk,that closing should take place on Decemer 16th. 1981(*1); but with the caution from the brochure offer for sale,that: eventhough the"building is offer clean and clear,of all City and State of New York prior liens" and that"home owner should search for,any Federal tax liens ", and"it will insure your title to the property";as was annexed in fed. district court as exh."4BIII";Q&A.

Aware of property owner's right,contacted Record Abstract Corp,who after title Search advised that building owner should insure such lien search,in case that there should occur any future despute in the title,and hence will not close on December 16,1981,as proposed by City of New York.But the,U.S. LIFE Title Insurace Co. of New York,[taken over by,"TRW,Co".];was not going to close until Jan. 21 1982.At the closing,being reprsented by,the Title insurance,and as an inducive a letter was given to the title insurance Co.,under which the same copy was given to me as a contract,stating that all CNY.liens are cancelled,which was annexed,as exh."4",in U.S.District Court;[also in,Art.78 Proceeding in State Supreme Court,that required summary judgement that was never dealt with by state court judge Durante;as on notation 13/14,of Appendix 6a.].Also it was made known to the property owner that he could have the water turned off at the Main,so as to avoid water charges as there was no water-pipes in the building.

On or about July 1982,property owner,made application for the bui$_1$ding alteration,as called for in the sales brochure;and equally requested for federally provided loan programs;as in 312,and J-51 Loans,APL. (Auction Loan Program).Property owner was then given the loan application and,was instructed to(a)hire achtect to draw plan, that is approved by Department of Building, and to submit a copy of such plan to H.P.D. Engineering unit,with a copy of the permit to Auction Sales Unit;and (b)to complete the loan application and attach three Contractors Estimates along with the application,All were done as required,but on about April 1984,as a prelude to unconstitutional taking;property owner was advised that,eventhough he was qualified for the loan the three estimates he annexed with the loan application were too small for the project,and that at least it will cost ($140,000),and wanted property owner to supply ($70,000)to be able to get such loan;while no other applicants were ever required to supply such amount in order,to obtain loan.Such was discriminatory and illegal;and in violation of Federal Lending practice Act.As in exh."FI".›

Also shortly after that letter,property owner also received another letter from,HPD that property owner didnot proceed for,the renovation of the building,and that the mortgage interest from 8½ to 14%; eventhough property owner had supplied the alteration permit to HPD.Auction Sales,Unit which indicated proceeding in good faith. Such suspension is not only a breach of contract,as it was also misapplied under which they had not given me the rehabilitaion loan program,which would,have indicated that property owner had misspent for the rehabilitation of the building.Also the increase of mortgage to 14% was in violation of;28 U.S.C.A.§1337;& Home Owners Loan Act of 1933,12 USC.§ 1461 et seq.

However,after such stopage property owner continued sending inn the regular mortgage,monthly payment until March 1985 exh."FII",after the last form sent until 1984,ended, and without any cancellation of the prinipal and amortization. Property owner took the second option provision which called,for the City to forgo the mortgage payment, to allow the renovation of the building,and for obtaining at least temporary Certificate of Occupancy.Using my own money for the renovation of the building and paying the Real estate taxes; under which property owner was alleted by the tax collector in Brooklyn in August 26,1985;exh"1b".Property owner contested that those liens were illegal a breach,of contract;and the water charges constituted fraud. But the cashier that gave out the print out advised the building owner,to call NYC.Department of finance for In,Rem Agreement and while paying the legal charge and fight for cancellation of the illegal liens. Also that regardless of whether building owner paid all the legal charges, and that the City can still forclose the property for the fraudulent charges.

Upon calling the NYC. Dept. of Finance an application was sent to building owner; received in December completed with payment of ($830:00),representing 15% of all the legal and fraudulent liens ,as exh."BI", the agreement referred to "LEGAL CHARGES".

The In Rem agreement mailed to NYC. Department of Finance never returned to property owner until petitioner went,to their office on Feb 14th 1986 before a copy was then made and given to him,under which it was explained to petitioner that property owner will continue to get Inrem notice until all the 16 quarterly installments are paid or the cancellation letters from those agencies are presented before those illegal liens can be removed.

After the property owner learnt the names of those agencies that imposed those illegal charges petitioner wrote letters to those agencies and also to the City Comptroller in 1987,with no response nor anycancellation; before resort in legal action in 1988 to have those fraudulent charges removed. However,rather than state supreme court judghe Durante having those illegal liens removed she bought the version of asst.Corp counsel motion to dismiss, that property owner did not challenged the illegal and fraudulent,lien performed five years before ownership transferred from the City of New York,to the new owner,the same lien the City used to forclose the building on the prior,owne in 1977,as well as the sealing up of the building in 1981 under which as a contract a letter of contract cited on p.5,as exh"4 which then constitute a conspiratorial fraud and a breach of contract. The Record Abstract Corp.acting on behalf of Title Insurance had also written to those City official to remove those liens in 1985, before Property owner took legal action as exh."4BII showed;which petitioner didno know until 1993,as it was in violation,of the contract agreement as in exh.4.cited above.While exh."4BII challenged the City agencies to leave to their contract,also surported petitioners claim,that there,was conspiratorial fraud,and illegal liens,tha violated the In Rem Agreement; which the State Supreme Court judge whoefully failed to prevent,the respondent lack and validit in claiming comity as this court had held in Ex parte YOUNG,209 U.S.124,that:(i)"The attempt,of a state officer to enforce an unconstitutional statute is a proceedin without authority of, and does not affect the state in its soverign of governmental capacity and is an illegal act and the officer is stripped of his official

character and is subjected in his person,to ,the consequences of his individual conduct.The state has no power to impart,to its officer immunity from responsibility,to the supreme authority of the Unite States"

"While a federal district court cannot interfere in a criminal case already ....as a general rule a court of equity cannot criminal proccding,those rules do not,apply when such proceeding are brought to enfoce unconstitutional state statute after,the unconstitutionalty thereof has bec me,the subject of enquiry in a suit pending in a federal court which has first obtain jusrisdiction thereover;and under such circumstances the federal court has the,

right in both civil and criminal cases,to hold and maintain such jurisdiction to,the exclusion of all other courts".[Such was applicable when the action was filed,under Civil Right and continuing Action in April 1993,and was brought to District Court,in May which the Court had assume jurisdiction after reviewing the case for seventy two, (72) days,for sufficiency before he ORDERED the respondents to filed answer,circled,"3.

When the floored judgement of State Supreme,Court arrived at the HPD.director,Ms.Martha Murphy's desk in March 1990;she enumerated several actions to be taken,as exh."AI" revealed that:(1) letter for,the cancellation of those illegal water,and Emergency liens;(2)to obtain APL.Loan,Form, from Elain Calos;and to complete and submit such application;when such steps were taken but was also denied as it was in 1984,1ndicating continuing action.As in GLUS; as well as cited by this Court in, O'SHEA V. LITTLETON,414 U.S.488,94,Supreme Court 669 when the Court held:"Past wrongs are evidence bearing on whether there,is a real and immediate threat of repeated injury;however,allegation of past wrongs"

/"does not constitute that showing of real and immediate injury,i.e.an actual case,or controversy,necessary before federal court may assume jurisdiction.USCA onst.art.3 § 1 et seq." at 670. As this case encompass such class of claim cases, and as in Glus,V.Brooklyn Eastern District Terminal,359,U.S.231,79 S.Ct.760.

As stated on our reply brief,and supplemental Reply Brief of both in December 1993 & 1994;that our suit started when it was filed with the NEW York City Comptroller on April 1993;who then had the power to over-rule the illegal agencie encumbrances and conspiratorial liens that deprived the property owner of his constitutional rights and by the federal statutes.Such exhibits anexed to the claim with asigned number was brought from,City Comptroller to Federal District Court,and made a part of our claim,as stated above and reffered to in the suit,that showed continued fraudulent action especiall,exh.(of 1991 April,fraudulently claiming installation of Skylight in property owner building where there was no skylight.and also harassmenmt replacement of the previously cancelled unprovided fraud,water charges,as stated on p.7 and 8 above.

Non of the exhibit reffered to was ever considered by the U.S.Court of Appeals,cir. 2;nor did judge Frederick Block file any openions,finding of facts and conclusion,of laws that could necessitate Court of Appeal to draw inference from as to applicability.

Also after property owner learnt through the RECORD ABSTRACT CORP,the producer/agent of the U.S.LIFE TITLE INSURANCE CORP.had been taken over by"T.R.W."; property owner then asked the"TRW",to defend the illegal liens.When they refused;motion for JOINDERpursuant to F.R.Civ.P.Rule 13(a)(e)(f)&(h);and supplemental suit was filed pursuant,to 28 U.S.C.A.§ 1332(c).

REASONS FOR GRANTING THE WRIT.

This Court should grant the writ for the following reasons:
[A] If the Civil Right Legislation of;1866, 1871,1964,and 1991,prohibit property ownersfrom prosecuting their cases under the Ku Klux Klan Act;in a tort claim,and under the"BREACH OF CONTRACT",and"DISCRIMINATORY AND CONSPIRATORY SCHEME"in Federal District Court.
[B]If the prior similar cases settled,by this court is binding upon federal district court EDNY.and U.S.Court of Appeals Cir.2. And if the rule of evidence is applicable in the Court of Appeals Cir.2.

[C]If the United States Statutes is binding in the federal district court as well as U.S.Court of Appeals Cir.2.

[D]If the United State District Court,judge is obligated to federal laws and statutes.

When this suit was filed in federal district Court Eastern District of N.Y.on May 18 1993,plaintiffs/torfisors moved,the Court to require the respondents to bring whatever claims they might have to the Court;under 28 USC.§1343 & 42 §1983. Once the federal district court had reviewed the claim and complaint for72, days with all the annexed exhibits and held,"Upon review of plaintiff's complaint and application to proceed in forma pauparis,this Court cannot conclude on the record that this action is frivolous or malicious under the meaning of 28 U.S.C. 1915.... SO ORDERED. S/S. S. Johnson.USDJ.
Since the case was not frivolous then,and the Court had assumed jurisdiction;any percievable state claim is overridden;by 28 U.S.C.§ 1446,legislation providing;

for the removal of litigation to federal courts and sumultaneous cessation of state court proceeding,See Frecch v.Hay, 22 Wall.250,22 L.Ed. 85.

Also in KLINE ET AL.,AS THE BOARD OF IMPROVEMENT DISTRICT..OF THE CITY OF TEXARKANA,ARKANSAS V.BURKE CONSTRUCTION,CO 260 U.S.226 in which this Court held:"Where a federal court has first acquired jurisdiction of the subject matter of a cause,it may enjoin the the parties,from proceediong in a state court of concurrent jurisdiction where the effect would be,to defeat or impair the jurisdioction of,the federal court".at 229

[This is applicable, especially when this claim was filed,first with the City Coptroller in April and brought to district court in May and ORDER for respondents to file answer,in July 26,1993,after which the City ageny, H.P.D.commenced the eviction proceeding in July,petitioning the district court judge not to grant injuctive relief was not only a violation of this statutes § 1446,cited above but also the settled decision cited herein and therefore illegal and unconstitutional, under which my PERSONAL PROPERTY was sealed up on the building in December 20 1993; constituting continued unconstitutional taking Action.The failure of court to enjoin is prejudicial,and unconstitutional.

On Dec.18,'93 motion was filed for the appointment of attorney by the court for jury trial as requested ,and mandated by the Congressional Act,of 1991; but the district court judge denied such motion noting,pendinig further development; permitting eviction,presumably to permit the City agency to have the opportunity to take the crucial exhibits that plaintiff had annexed to the suit/claim from City Comptroller;that might allow the court's review for jurisdiction purposes.

As the judge denied petitioner motion for appointment of attorney,as covered above petitioner was able to secure attorney, Mr. Colin Moore,in March 1994,who then made a motion for appearance,inquired for the status of the case.But the court failed to recporgnize him as he did,for asst. corp. counsel,Andrew Gelfand in.Nov. 1993; presumably he knew that Colin Moore, was under suspension,which he was appealing which was unknown to petitioner until he loss such appeal in June 1994.After which he permitted relitigation,as the motion of asst. corp. counsel Rochelle Cohen's spun and fabricated 1987,mortgage forclosure while she was the one deffending the Article 78 proceeding for removal,of the illegal and conspiratorial encumbrance as stated above on p.5.and 8.

When plaintiff learnt from the neighbor,on or about November,1994 after the district court had dismissed respondent's attorney motion to dismiss of October 1993;in which the Court had permitted relitigation,under which H.P.D.workers started ransacking,our personal properties, I made a motion for convening a three judge court to determine the constitutionalty of such personal property seizure. But as before the district court then transferred the case to judge Frederick Block;with no action. Even after Andrew Gelfand relitigated motion motion to dismiss as he was questioning the exh"6" that I had annexed to the suit/claim brought from City comptroller showing continu ing fraud,cited on p.10,in which the defendant falsely claim the came through the roof and instal Skylight proving false and fabricating,job they never perform. I also challenged the legality of H.P.D.claiming the perform any job on my property as a private property as such would be illegal trespassing under New York State/City,code § D26-51.01 (c)(1).at p.8.of my Supl.Brief.

Equally property owner challenged the asst. corp.counsel,Andrew Gelfand's claim, that property owner didnot claim that,non City worker conspired to place fraudulent liens on his property;but I then pointed out who is Mr. and Ms. Kelly? And that, can't City workers conspired among themselves? Also that was it not Mr.Fred Kelly that did the side-walk for the prior owner,William Berry,after the citation,for the sidewalk defect in 1976,for him to repair it and was notified by CERTIFIED MAIL; by August 19,1977,to perform the repair within 20 day exh."FV". After such notification,the City,by Fred Kelly perform the job;filed and entered it on the County Clerk Record as "Fee exempt" dated October 3, 1977.Was that not conspiratorial,fraud? Also as stated on p.5,8and 9.when the,state supreme court floored judgement,arrived,and a meeting was schelduled with the director, of H.P.D.Ms.Martha Murphy,and during the meeting,as the letter from attorney,Hass dated March,5'90;stated that I have 30,daysto file an Appeal;and in which I told,the director,Ms.Murphy, that I will appeal.Butshe told me not to waste my money,which I could be using to finish renovating.the building;on lawyer;that she was going,to honor there,contract agreement and asked letter to be written for cancellation,of those illegal liens.But when those letters were written,dated March 26,1990,signed by the director of sales monitoring unit,Ms. Diane Moore,sent to wrong borough Brooklyn and Manhattan(exh#"5ai,& 5aii) respectively to:Bureau of water Register and Dept.of Hi ghways.

When In-Rem action 43 Notification was sent to property owner dated August 31,but was not received until Nov. 1990, by both NYS. Supreme. Court and NYC. Dept. of Finance; both stating:In-Rem Action No;"43" as in exh."EIa" & "EIb" of the proceedural process to follow by property owner.

He then lurched not only administrative attack,but also political help with the City Councilman Walter Ward. through Council Member Virginia Fields exh"BIa" Dec. 17,'90 And Ms.Veronica Smith amended the address of letter to cancel as covered above,and re-annexed with the cover letter;exh."5Ci" & "5Cii",of Dec. 3rd.1990.Those pressures lead to the cancellation of illegal water charges in the amount of ;]$7004.26]as exh."11";leaving a balance of [$1574.26 minus the($900.00)the property owner had deposited towards the mandatory release.The total balance after deposit of($900.00)exh.10)leaving the balance,of[$574.26];excluding the fraudulen claim,of sealing up the building which was actually done, in 1981 under UB95/81,and attested,byexh."4BII";by Record Abstract Corp.present at the closing on Jan.21,1982.

Attested to such fake and fraudulent, unperformed job was exh."6",as cited on p.13.above;which neither judge Block nor any one of the U.S.Court of Appeals ever dealt with;challenging the validity of,the decision of U.S.Court of Appeals under the" RULE OF EVIDENCE",which will be cover later.The property owner willing to pay the remaining balance quoted above under the mandatory release and challenge in a suit for fraud and breach of contract for the side walk job done in 1977,under which the letter to remove those illegal encumbrance address to the chief engineer Mr. Levine,which he referred to Fred Kelly who actually performed the jod in 1977,file and marked it"done free";to reply the letter,and he was the one who shut off the water in 1982;which Ms.Kelly presumably his wife started issueing fraudulent water bill.The continuing action also was in effect after she sent cancellation latter to the Department of Finance,under which

the cited amount of [$7004.26] was removed;and again placed back on or about April 10,1991
as exh."8,& 8B";attested to such continous fraud.as also cited in this Court settled cases on p.9 & 10;citing O'SHEA V. LITTLETON,414 U.S.488.and GLUS V.Brooklyn Eastern District Terminal,359 U.S.231,79,S.Ct.760. in which this Court also held:
ESTOPEL*****59. LIMITATION OF ACTIONS***13
"Maxim that no man may take advantage,of his own wrong is applied in many diverse classes of cases by both law and equity courts,and is frequently employed to bar inequitable reliance on statutes of limitations".
As this was the judgement and settled decision of this Court reversing the same U.S.Court of Appeals Cir 2. who now accepted statutes of limitation presented by the Corp.counsel who then disregard the rule of evidents supplied showing continued conspiratorial schemes.Also said that plaintiff could challenged the fraudulent and unconstitutional taking in the state Supreme court where property owner originally instituted Art 78 as covered above with chill effect fron state Supreme court judge.As that was the heated argument in the Civil Right Legislation,of 1866,1871.
in which this Court revealed on Civil Right Cases;1883 and revisited it on(a) Monroe V.Pape Supra,and held"That comity does not apply where § 1983 is involved,and that a litigant challenging the constitutionalty of any state action may proceed directly to federal court."
(b)In McNeeese V. Board of Education,the Court held:"The immediacy of federal relief under § 1983 was reemphasized, McNeese,V. Board of Education,373 U.S.668 (1963);

where the Court stated:"It is immaterial whether the state official's conduct is legal,or illegal as a matter of state state law.such claims are entitled to be adjucated in federal courts." id at674. Also in the unargued per curiam opinion of Wilwording,V.Swenson, 404 U.S.249 (1971)the court concluded that petitioners were entitled,to have their actions treated as claims for relief under the Civil Right Acts,not subject to exhaustion requirement." id.at 251.

In LIBERTY OIL CO.V.CONDON BANK,260,U.S. 235 this Court held:(a)"Where an equitable defense is interposed in an action at,law, the equitable issue should first be disposed of,and if an issue at law remains, it is triable to a jury". at p. 242. (b)"This preserve the right of jury trial guaranteed by the Seventh Amendment,being in conformity with the practice of the courts of law and chancery in England,at the time of adoption of the constitution in the light of which the Amendment should be construed." id at 243. (c)"Under Jud.code,§274b,supra,whether review is sought by writ of error or appeal,the appellate court has full power to render such judgement upon the record as law and justice require." at 245

As quoted from this Court s\'ettled issues did the U.S.Court of Appeal, adhere to this Court doctrine? The cir.court of appeals stated the case was heard on the record of federal district,but the record was barren except DIATRIBE,ILLEGAL AND UNCONSTITUTIONAL ORDER which violated plaintiffs fisrt and fourteenth Amend.to U.S.Const. right to be heard and petition ones goverment for griviances,and for a redress..

The court of Appeals decision run contrary to all this Court had settled as cited herein which warrant granting this writ and staying the uncustitutional ORDER.

of Judge Block,which this Court had stated IS UNCONSTITUIONAL as in BONDIE V. CONNECTICUT,401 U.S.31in which this Court hel;"Astatute or rule/ORDER,may be held constitutionaly invalid as applied when it operate to deprive an individual,of protected right althoug its general validity as measure enacted in the legitimate excercise of state power is beyond question." U.S.Const Amend, XIV.

Judge Frederick Block had also acted and exhibited propensity for prejudice,for conceling the property owner's default judgement against the title insurance,"TRW" for failure to defend,under breach of contract;as cited on p.10 above.The joinder of the "Title Insurance Co.which under28, U.S.C.A.§ 1332(c)§5.02[a].[2][A][B].Damages For Breach of Duty To Defend,§ 5.05.Is binding at the federal district court;under diversity clause,that required no jury trial.Failure to file an answer after, seventy days(70)days default judgement,will enter,from the date suit was received by respondent "TRW",which was 4/24/95;Fd.R. of Civ.P.Rule55 (a);(b)(1)&(2) 28 U.S.C.A.

In IN-RE URANIUM LITIGATION; WESTINGHOUSE ELECTRIC CORP.

V.

RIO ALGOM LIMITED, Et al.

UNITED STATES COURT OF APPEALS (4) SEVENTH CIRCUIT. 617 F.2d. 1248(1980). That Court,said under Fed.Civil Proceedure; held:Frow rule governing entry of default judgement against fewer than all defendants did not preclude entry of default judgement against more than one but fewer than all defendants...before issues on the merits against remaining defedants were decided where liability would be joint and several rather than joint."

(6)"Several or independent liability arises when one defendant is found to have committed a tort without the aid of other defendants;[as herein applicable in the title insurance failure to defend;a breach of responsibility]; a finding of liability as to one defendant is consistent with,a finding of no liability as to the others,so long as there is no relationship within,the parties requiring vicarious liability."

The concealment of the default judgement from the file sent to U.S.Court of Appeals is illegal and prejudicial,and constituted a proof that satisfy 28 U.S.C. §144 cited on p.4;BIAS OR PREJUDICIAL,JUDGE as above.This petition then consitute;both for writ of certiorari and STAYING HIS,ORDER Quotting this Court,as above,in violation of U.S Const. Amend 14;and equally his recusal which the U.S.Court of Appeals had considered as without merit and which the same judge had stated on p.9a.in the appendix.

Since Rule 23(2) pursuant to 28 U.S.C. § 2101(f);calls for application to Justice to stay the enforcement of the judgement of the lower federal Court as herein Judge Frederick Blonk;and such order as annexed which petitioner had challenged based on this Court decision as cited above,violated our constitutional rights under the U.S. Consttution Amend. First and Fourteenth;the judge then exceeded his power,such ORDER should be STAYED. Since such application had been made to the district judge on Feb.1996,also,to the U.S.Court of Appeals in both our Appeal and rehearing motion which the same court of Appeals sent a copy to,the same judge,as on Appendix,9a the petitioner had thus exhausted as this Court Rule 23(3)required.

Hence,if being a pro-se littigant does,not automatically bar judgement on the,merit; The Court should grant the writ as the question in,490 U.S.319.Neitzke v.William.

In our appeal,when the respondent attorney repeated the prior corp.counsels' answers, annexing judge Block's order as "settled,on the record"which contained only the illegal order challenged herein to be STAYED;with no further enclosure;appellant went to Court of Appeals file to find out if there was any further enclosure besides the,order sent to appellant from his attorney who appeared for pre-trial deposition hearing.

Mr. Wayne Palma accompnied letter,also showed prejudice by Judge Block;in which,he repeated judge Block's diatribe order,that we had commenced several claim in the district court and that he denied the fifth amendment claim of unconstitutional taking and threatened to sanction him,for arguing the case on civil right ground.But what Civil Rights Legislation of 1866,1871 & 1964,contained was from,U.S.Const. Amend I through XIII;and was based upon PERSONAL LIBERTY,PROPERTY,LIFE,and IMMUNITIES,that is afforded protection,all in Amend.XIV,from statutes.That was the basis for the legislative enactment of 28 U.S.C.§1343,42 U.S.C.§1983, & §1985.He also concluded his letter that;"judge Block was not very receptive",to our claim;which another judge had reviewed for 72 days before his order in July 1993, as in the appendix."C". Plaintiff/appellant then filed a supplemental reply to the respondent answer,referring the Court of Appeals to our Reply and Supplimental reply Brief,of Dec. 1993 and 1994 respecively,to this Court,in MENNONITE BOARD OF MISSION V. ADAMS,462,U.S 791, in which this Court held:"MBM.was not informed of the pending tax sales either by County Auditor or by Moore.Yhe property was sold for $1,167.75.to Appellee Richard Adams on Aug.8,1977.Neither Moore nor MBM appeared at the sale or took steps thereafter to redeem the property.

Following the sales Moore continued to make payments each months to MBM." at p.794. [The same petitioner was making payment on the property until 1990; with exh."BIII" &BIV"; disproving the respondents fabricated,claim that petitioner did not pay the taxes;and showing the dates of payment on p.14 of my Supplemental Brif of Dec.1994,as:8/4/89; 12/28/89;1/30/90;7/12/90.

This Court also had settled another federal important federal question on the same page ,794 as quoted above where the Court held:"After obtaining a deed,the purchaser may initiate an action to quiet his title to the property....The previous owner,lienholders,and others who claim,to have interest in the property may no longer redeem the property.They may defeat the title conveyed by the tax deed only by 'proving,inter alia,that the property had not been subjected to,or assessed for,which it was sold,..property was redeemed before the deed was executed'." at 794. 462 U.S.

Property owner then pointed to In-Rem Action No; 43 notification,as stated on, p.14 & 15; while exh.EIa. was notification from NYC. Deputy,Commissioner, Kathlene Grimm,of the Dept of Finance;and the second one exh."EIb,: with Letter head of Supreme Court Queens County also on In-Rem Action No: 43,alsO signed by Acting Commissioner, of Finance Kathlene Grimm.

With those two exhibits constituting,the commencement of forclosure and the steps to be taken to remove the property from,the In-Rem Action No;43 in which those steps were taken and "CERTIFICATE OF WITHDRAWAL ACT.43 11-12-90.was issued;after the cancellation letter that warrant removal of the illegal,water charges as in exh."11"as covered on p.14 and 15 above;that showed that property owner had accomplished the Mandatory redemption.

As this Court had settled under due process clause,on mandatory release;that property had been redeemed before the deed was executed.through combination of exh.EIa;EIb, and C.A.BIIa"re-presented,to Court of Appeals; which equally proved that" the building/property has not been subjected to ,or assessed for,which itwas sold," provision cited from this Court as above.

But due to bad faith, the respondent faked another fraud chargesd,as in exh." 6,"," 8",& " 8b".as continuous fraud, on April 1991,which will delay the time for filing action.

AS CITED on p.1 from this Court,on WILWORDING ęT AL.V.SWENSON,that pętitionerswere entitled to have their actions treated as claims for relief under the Civil Right Act.;which was a claim under § 2254.But contrary to that case our claim was actually filed under Civil Rights Act:440. Cause; 42: 1983; in federal district court not with Federick Block but with Sterling Johnson ;as in Appendix "C";which is not subject to state exhaustion especially,when it was commenced from the state court.as covered on p.5,8 and 9,above.

As no further In-Rem furclosure Notification was ever sent to property owner on Mortgage forclosure which then offended due process notification under the fourteenth amendment;settled by this Court,to have the opportunity to challenged on constitution ground,as stated on p.6 and 7,above.which this Court had consistently struck down,as offensive to due process notification under the fourteenth Amendment.Such should be another ground for reversal of the,Court of Appeals cir. 2.

During the Oral Argument, plaintiff/ appellant challenged the legality,of respondent claim that the judge Block,grant their motion under Fed.R.Civ.Rule 12(b)(6). ENTERED ON March 21,1996,at p.1 of her letter. I contested such sua sponte dismissal,which this Court had said it should be tried on the merit.

(a)Since the case was filed on May 17, 1993,under Civil Rights,reviewed by Judge Charles P. Sifton,endorsed and signed Motion to proceed In Forma Pauperis,dated 5/17/93.Also reviewed by judge Sterling Johnson,with the annexed exh. cited above on p.9,and reviewed for 72 days and assumed JURISDICTION.Neither Judge Frederick Block nor U.S.Court of Appeals can then grant summarry judgement under the contested,rule above,under the Civil Right Legislation.

(b) As had been settled by this Court,on Neitzke V.Willaims,490 U.S.319;in which,the Court held
:"A complaint filed in forma pauperis is not authomatically frivolous within the meaning of § 1915(d) because it failed to state a claim under Rule 12(b)(6)...."

(c)If two judges had assessed the claims and assume jurisdiction; as cited in this Court holding on LIBERTY OIL CO.V.CONDOM BANK,260 U.S.235;and in clause (b) at,p.17; that preserve the right to jury trial.Which was also legislatively enacted in 1991;that preserved jury trial on Civil Right Cases.

All the above was argued during oral argumen on Nov.13 1996 pointing out those exhits enumerated above showing continued Conspiratorial Schemes,and Bad Faith;under which petitioner was not obliged to exhaust and go back to state court which the Court of Appeals cir.2;had espoused the respondent claim;as the 8th.Cir. Court of Appeals had done,under which this Court said on WILWORDING V.SWENSON,404 U.S.249; and held:"Section 2254 does not require petitioners to pursue alternative,

courses suggested by the Court of Appeals since their availability was conjectural and, regardless of the remedy invoked,the state courts had not granted a hearing to state prisoners on the condition of their confinement." The same is applicable when Art. 78 was commenced in state court that failed to decide federal questions of Conspiratorial uncumbrances.
[a]
Under the Ku Klux Klan Act that grew out of the message that U.S.President Grant on March 23,1871 when he held: "A condition of affairs now exists in some states of the Union rendering life and property insecure...The power to correct these evils is beyond State authorities... Therefore, I urgently recomend such legislation as the judgement of Congress shall effectually secure LIFE,LIBERTY,and PROPERTY,in all parts of the United States...."

During the debate on the legislation; under which Senator Sherman of Ohio held: [b] ..."it is said the reason is that,any offense may be committed upon a negro by a white man and a negro cannot testify in any case against a white man,so that the only way by which any conviction can be heard in Kentucky in those cases is,in the United States district courts,because United States courts enforce United States laws..' at 345. Hence as legislative enactment did U.S.Court of Appeals enforce federal laws aa here in this case?

In the motion for rehearing I said that it was inviduous discriminatory animus when the Court of Appeals admitting §1985, citing GRIFFIN V. BREAKINGRIDGE,404 U.S.88, at ap. 7a. plaintiff also contested Court of Appeals that the court lack jurisdiction (a) to second guess what district court never claimed in his judgemental diatribe.

That it will be speculative at best unless the court of appeals was adopting the defense attorney's version which is then,prejudicial and lack jurisdiction,as to who should reverse who..That conspiracy is a crime not protected by any state or federal law; as legislative enacted.
(b) As this Court had also said in Monroe V.Pape and held:"We had before us in United States v. Classic,supra,§ 20 of the Criminal Code,18 U.S.C. § 242,which provides a criminal punishment for anyone who'under color of any law,statute ordinance,regulation,or custom subjects,any inhabitant of a state to the deprivation of any rights,priviledges,or immunities secured or protected by the Constitution,or laws of the United States".id,at 183,Monroe V.Pape,365 U.S.167. Which came out of Civil Rights Act of April 9,1866.

In concuring by justice Harlan,he held: "It is abundantly clear that one reason,the legislation was passed was to afford a federal right in federal courts because,by reason of
prejudice,passion,neglect,intolarance or otherwise,state laws might not be enforced and the claims of citizens to the enjoyment of rights,privileges,and immunities guaranteed by the Fourteenth Amendment might be denied by the state agencies...." As herein enacted was not plaintiff/appellant Thirteenth and Fourteenth Amendment been denied?.As Ku Klux Klan Act grew up to enforce Const.Amend.Thirteenth. And if the state court denied property owner enjoyment of his property through illegal encumbrances;
should the federal/equity court had to,do and denied the same?

As this Court had also said in BODDIE V. CONNECTCUT.401 U.S. 371 in which the Court held:"Whereever one is assailed,in his person or his property,there he may defend".

Citing,Windsor v.McVeigh,,93U.S.274,277, (1876)."The theme that 'due process of law signifies a right to be heard in one's defence'..has continually recurred in the years since Baldwin,Windsor and Hovey.." In effect if plaintiff had the right to defend his property rights from Ku Klux Klan illegal attack,and to be heard on the merit;under what constitutional right does the district court have to prohibit plaintiff from pursuing his claim in federal court,which is the court of equity that is to provide the atmosphere and to adjudicate federal questions? Also who is the second cir. court of Appeals to grant summary judgement under which the Supreme Court had settled based upon the Congressional enactment under Rule 56 that called for summary judgement only after deposition? If plaintiff cannot present evident to support his claim how can he be heard on the merit? And as also settled by this Court that as long as evidence exist that it is not the judge to decide the sufficiency but only to assess such evidents,under Rule 56(f);which appellants re-presentedthe exhibits that had been cited above,and Citing;CELOTEX CORP. V.CATERETT,477 U.S.317 and in ANDERSON V. LIBERTY LOBBY INC.,under which this Court(a)"Summary judgement will not lie if the dispute about a material fact is genuine,i.e, if the evidence is such that a reasonable jury could return a verdict for nonmoving party.At the summarry judgement stage,the trial judges function is not himself to weigh the evidence and determine the truth of the matter but to determine whether there is a genuine issue for trial.There is no such issue unless there sufficient evidence favoring the nonmoving party."

As this Court had cited herein that it is the trial judges that determine, genuine issues for trial and not the Court of Appeals. Cites as 477 U.S.242-252.

Therefore the Court of Appeals lack subject matter jurisdiction to grant summary judgement;merely claiming,judge Block dismissed claim from the bench buying corp.counsel version is speculative and,a fraud. which both judge Block and Court of Appeals lack jurisdiction to grant subject matter jurisdiction without deposition hearing as cited this Court as above,as the only authority which the court of Appeals is obligated to respect; this Court should grant the writ,stay the order of Frederick Block,declare his judgemen as in p.9a, as defiant U.S.Congressional law,§144;reversed Court of Appeals cir.2,and recuse Judge Frederick Block.Remand the case back to fed.district court for deposition hearing and jury trial,by another judge,consistent with this Court ruling in 260 U.S.at 242 cited on p.17 above.Permit petitioner to file a Brief,and order respondent to file answer.Or in,the alternative grant the writ,reverse par Curiam as in WILWORDING V.SWENSON,404,U.S. 249 cited on p.17 above;and based on all other settled cases by this court among which similar cases as in:SCHROEDER V. YOUNG,161 U.S.334, "While mere inadequacy of price has rarely been held sufficient itself to justify setting aside a judicial sale of property...'.

GRAFFAM & Another V.BURGESS,117 U.S.180. "Great inadequacy of price at a judicial sale of real estate requires slight circumstances of unfairness in the conduct of the party benefited by the sale,to raise a presumption of fraud."

"STEFFEL V. THOMPSON,415 U.S.452 Federal declaratory relief is not precluded when a prosecution based upon an assertedly unconstitutional state statute had been threatened...even if a showing of bad-faith enforcement or other special circumstances had not been made".

In SCHROEDER V. CITY OF NEW YORK,371 U.S.208 Court held:"In circumstances of this case,the newspaper publications and posted notices did not measure up to the quality of notice which the Due Process Clause of the Fourteenth Amendment requires.' 208-214.

In INTERNATIONAL BUSINESS MACHINES,INC.
V.
HON.DAVID N. EDELSTEIN,Chief Judge
Southern District of New York.
cites as 526 F.2d. 37, cir.2.The court,held "It is the appealing parties,and not the trial court,who control the issues to be presented on appeal,and district court will thus refrain from exercising any degree of control over contents of trial record,even when parties had petitioned trial court to exclude certain items from record.Fed.R.Civ.Proc.Rule 10(a),28 U.S.C.A. [This reflect prejudice of the cir. court of appeal,when it failed to deal with Judge Block concealment of default judgemen motion of "TRW" Title insurance for failure to defend the liens.]

In TRUAX V. RAICH.239 U.S.33.this Court held:"An alien admitted to United,states under federal law has not only the privilege of entering and abiding in the United States but also of entering and abiding in any state,and being an inhabitant of any State entitles him,under the Fourteenth Amendment to equal protection of its laws. [This also account for the injustice perpetrated on our family which judge block dismissed all those cases,especially when the habes corpus that he denied stated that the NY.State has Fourth Amendment remedy in their court; and also lied and comitted perjury when,hefalsely claimed that three judge district Court is only for congressional and political matters ;while he was the one representing New York City as an assist,Corp.counsel in CHILD V.BEAM,412 F.Supp.]

593,(1976);in a three judge district court.In that case the oppressors called it child abuse breaking down our door without any warrant in violation of Const. Amend IV,but the class of the oppressed Blacks,aliens,and Latino called it Slavery;in violation of U.S.Const,.Amend IX,XIII,& XIV.While our children are still being lynched and confined in psychiatric institution by the order of state family court judge who had conspired and broke her promise that our children should be released in six month from June 1991.When those children wanted to go home she issued order of protection calling the ABSCOND as criminal and they started giving the drugs so as to make them psychosis and subject to police arrest and be brought back to their captors;in violation of their liberty protected under the U.S.Const. amend Fourteen;under which the state had never shown who they were protecting and judge Block said it is,a matter of family affair and belong to state,which in essence the state can take children as slave now being practice in Sudan;if it is being practice in the United States where there is Liberty and constitution,why not in sudan and else where? The child is now confined to Psychiatric Institution,that I objected to place my child in 1988;from being used as guinea pig as in Toskigi experiment;that brought the false child abuse alligation;in violartion of.U.S.Civil Right Act,covered above and U.S.Const. Amend.VIII.That was the reason of his ORDER prayed here to be STAYED; and interest of justice requires it to be STAYED and he should be recused.If similar single motion for judge Sterling Johnson to recuse himself from that newly filed case,before the case was re-assigned to judge Block,why not the same for Block.

It takes four;one to judge Block,in Feb.1996,another to chief judge,E.D.N.Y., and another to U.S.Court of Appeals and the fourth to this Court.Hence he should be recused as the law of the U.S.Requires as a prejudicial judge 28 U.S.§ 144.

IN CONCLUSION: For all of the above the writ should be granted.and STAYING the ORDER of judge Block and demand respondent to file answer and also permit appellant to file a Brief. Or in the alternative as those settled cases by,this Court similar to the case at bar the Court could reverse the Court of appeals decision,remand the case to district court for jury trial by another judge while STAYING the ORDER of judge Block.

Respectfully Submitted

Dated this 14th day of Feb. 1997.

SYLVESTER OLU ABIDEKUN
[Pro-se]

OLUWAFUNMBI ABIDEKUN

P.O.BOX 210378,
Brooklyn N.Y.11221-0378

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT
Docket No: 96-7316

NOTICE OF MOTION

@@X

SYLVESTER O. & OLUWAFUNMBI ABIDEKUN
VS.
NYC DEPARTMWENT OF HOUSING
PRESERVATION,&DEVELOPMENT et al.

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MOTION FOR RE-HEARING TO VACATE JUDGEMENT, RE-DETERMINATION,PURSUANT TOFED. Rule of Civ. P.Rule 59(b)& (e) 28,USC. This decision was post-marked Nov.23,and was received on 27,Nov.96,and pursuant,toFed.R. Civ.P.Rule 6(e),THIS MOTION TO VACATE JUDJEMENT,and STAY THE DECISION OF THIS COURT constitute a timely Motion.Judge or agency whose order is being appealed: FREDERICK BLOCK; for re-determination REVERSE AND REMAND CASE BACKJ TO ANOTHER DISTRICT COURT JUDGE,FOR EVIDENTIAL HEARING,PURSUANT TO RULE 56(c,& f)& 50(a) of,F.R.Civ. P.and to grant default judgement against the Title insurance..T.R.W. for failure to defend.

Complete page 2 of this Form...Motion must be accompanied by a supporting affidavit (Local Rule 27(a).*1

APPEARING FOR: (Name of party)
S.O.ABIDEKUN[PROSE)

dated & submitted;12/4/96.

Kindly leave this place blank

---------- ORDER_____

IT IS HEREBY ORDERED that the motion be and it hereby is denied

DEC. 18 1996

Signed A/S/: J.L.Oakes
Hon.J.M.Mclaughlan
" " J.A.Cabranes
Cir. Judges.

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*1.see annexed motion and enclosed exhibits,pursunt to rule 33

APPENDIX A- OPENION OF THE
UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT
SUMMARY ORDER.

THIS SUMMARY ORDER WILL NOT BE PUBLISHED IN THE FEDERAL REPORTER AND MAY NOT BE CITED AS PRECEDENTIAL AUTHORITY TO THIS OR ANY OTHER COURT, BUT MAY BE CALLE TO THE ATTENTION OF THIS OR ANY OTHER,COU IN A SUBSEQUENT STAGE OF THIS CASE,IN A RELATED CASE,OR IN ANY CASE FOR PURPOSE OF COLLATERAL ESTOPPEL OR RES JUDICATA.

At a stated Term of the United States Court of Appeals for the Second Circuit, held at the United States Courthouse,Fole Square,in the City and County of New York, on the 22nd day of Nov. one thousand nine hundred and ninety-six.

PRESENT: HONORABLE JAMES L. OAKES,
HONORABLE JOSEPH M. McLAUGHLIN,
HONORABLE JOSE. CABRANES,
Circuit Judge

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ON CONSIDERATION WHEREOF,it is hereby ordered,adjudged,and decreed that the judgement of the district court be and it is AFFIRMED.

Abidekun purchased property from the City in 1982.At the time of the sale, Abidekun also gave the City a purchase money mortgage in the amount of $21,000. From 1983 to 1985,Abidekun failed to pay certain expences*1,and the City entered tax liens*2,on the property.Abidekun had notice of the liens on or about August,1985 Several months later,Abidekun entered.into In Rem Instalment Agreement with the City in which he agreed to pay off the tax,*3 liens in instalments and all current taxes and other assessments*4 as they came due.

By January 1987,the City had filed,an In Rem Tax Forclosure Action against ABIDEKUN on the bases of the above liens and other assessments the property.In,July, 1988,Abidekun commenced an article 78 proceeding seeking dismissal of he pending In Rem action and requested that the State Supreme Court invalidate various liens*5. In May,1989,*6, the Supreme Court dismissed the action.

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*1; What certain expenses, Fraudulent liens incured 7 years before I purchase the building,in which the City gave contract letter that all City and State liens are removed! How about exh ."4"?
*2; when does the fraudulent/conspiratorial liens bacame a tax liens in United States?
*3; to pay off the legal lien which was only $1,200,for which I deposited $830.00. and to pay only the remaining in 16 instalments,in every 3 months or $295.00.
*4; the agreement specifically stated legal charges and not illegal/fraudulent charges.*5;the Court of Appeals claim is false,as the decision was on March,1990.

By 1990, Abidekun had also defaulted on his In Rem Ibstalment Agreement *6.Th City moved to foreclose against against the property.The New York Supreme Court granted the order and transferred title*7;to the City in October,1990.two months later,Abidekun applied for a rele of the City's interest in the property. The application for release was ultimate denied in December 1992 because Abidekun failed to pay off the liens*8; and didn't remit certain statutory fees.In September,1993,the Civil Court,Housing Part,Queens County, issued an eviction order.

Abidekun filed this suit in Federal Court in May, 1993*9, under 42 U.S.C.§198 1983 and 1985,contesting the validity of the liens,claiming that City officials had conspired to deprive him of his property.Defendants moved to dismiss pursuant to Fed.R.Civ.Proc.12(b), arguing that:(1) the federal court lacked subject matter jurisdiction;and (2)the principles of comity necessitated dismissal;or (3) alternatively,Abidekun's challenge was barred by: (a)the doctrine of res judicata and collateral estopel;and (b)the statute of limitations.Judge Block granted granted defendant's motion to dismiss from the bench*10

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*6 The U.S.Court of Appels is conclusory in nature,just adopting respondent attorne version motion,as the In Rem agreement,cal for 16 installment payment from 1986;as,*4

*7;The Court of Appeals was also wrong,jus buying one sided version of the corporatio counsel which Judge Sterling Johnson didn' buy due to exh. presented,thereby denying R.Cohen motion to dismiss.in October 1993.

*8 Yes ,because the liens were illegal,and fraud and consist of continuous fraud.

Abidekun appeals, arguing that: (1)the dismissal denied him his right to jury trial;(2)City officials conspired to deprive him of his property;and (3) Judge Block should be recused from plaintiff's pending cases.*11

(1) Lack of subject matter jurisdiction. The City argues that the the district court didnot have jurisdiction over §1983 claim under principles of comity and the tradition of avoiding federal involvement in local tax matters*12

Federal injuctive challenge to state tax laws*13;are barred in federal courts. Kraebel V.Department of Housing Preservation & Dev.,959 F.2d.395,400(2d.Cir 1992)see 28 U.S.C § 1341 ("The district court shall not enjoin,suspend or restrain the assessment,levy or collection of any tax*14, under the state law where a plain, speedy and effective remedy may be had,in the court of such State").*15.The principle of comity also bar fed.courts from considering §1983 claims for damages against,the administration of state tax scheme*16.

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*9;The suit actually commenced on April,8thfrom NYC.Comptroller as required by State/City law.

*10;The U.S.Supreme Court had admonished lower courts that such rule -12(b)91)(6) should not be used to dismiss a claim;held: "a complaint that failed to state a clain ia not authomatically"frevolous",Neitzke V.Williams,490 U.S.319.

*11;It is legislatively mandated under,28 U.S.C.§144,to recuse himself.as a prejudicial judge.

*12 The U.S.Sup.Ct.had overturned such principle of comity when fraud and illegality are committed,as class based animus under Civil Right violation as,in Wilwording v. Swenson,404 U.S.at 249.

LILCO V. Town of Brookhaven, 889 F.2d.428 431(2d Cir.1989).However,"federal jurisdiction over challenges to state,tax schemes is not precluded..if state remedies are inadequate,"Kraebel,959 F.2d at 400.*16

New York State courts offer sufficient remedies for plaintiff,precluding federal jurisdiction*16.Among other options,Abidekun could have challenged,his tax liens*16 through an Article 78 proceeding; a suit for declaratory relief under N.Y.C.P.LR.3001 and/or N.Y Gen.Mun. Law § 51, see LILCO,889 F.2d at 431;or,a § 1983 case brought court[see also *12, above];see Bernard v.Village of Spring Valley,30 F.3d 294,297(2d Cir.1994).

We conclude that the district court properly dismiss the action because adequate state remedies were available to plaintiff and principle of comity compelled dismissal.*16

2. The Statute of limitations. Any Section 1983 actio arrising in New York is subject to three-year statutes of limitations*17. Murphy v.Lynn, 53 F.3d 547(2d.Cir.1995). Such cause of action accrues when plaintiff "'knows or has reason to know of the injury of the injury which is the basis of his action.'"Singleton v.City of N.Y.,632,F.2d 185,191 (2d.Cir.1990).

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*13& 14,see notation on *12 above,as cir.2. cirtation is not an authority beside the settled by U.S.Supeme court,as the supreme authority.

*15/16 There is a big difference between legal and fraudulent tax. and breach of contract.and did the three judges of the cir. 2 court of appeals knew what they were writing? Claiming that the State supreme Court dismiss Article 78 proceeding in May,1989,on p.3a and now claiming,thatAbidekun can commence article 78 in state Court as herein?

Abidekun had notice of the lien in August 1985, the denial of a loan application in 1984,and the forclosure action in March,1990,*18;but brought this action to federal court in May.1993*19. Abidekun's claims are time barred by three years statutes of limitations.

3. Failure to state a Claim for Conspiracy. Abidekun also claims that City officials conspired to deprived him of of his property.Abidekun has failed to state a claim under 42 U.S.C § 1985.

Section 1985 prohibits conspiracies,that intend to deprive "either directly or indirectly, any person..of equal protection of the laws, or of equal privileges and immunities under the laws."42 U.S.C. §1985(3)."Plaintiff must allege'some racial,or perhaps otherwise class-based, invidious discriminatory animus behind,the conspirators' action*20.'" Gangliardi,v. Village of Pawling,18 F.3d 188,194(2d.Cir.2 1994) (quoting Griffin v. Breckenridge,404 U.S.88,,102 (1971). Claim of conspiracy "containg only conclusory,vague or general allegations of conspiracy to deprive a person a person of constitutional r ights cannot withs tand motion to dismiss.'"Leon v.Murphy,988 F.2d 303,311 (2d.Cir.1993)

Abidekun has not alleged any specific facts to support his claim of conspiracy. The district court was correct in grantion City's motion to dismiss.[see *10 at 5a.].

We have considered all of the arguments raised by Abidekun,and find them to be without merit.

Accordingly,the decision of the district court is AFFIRMED.

Hon J Oaks
" J.McLaughlin
" J. Cabranes
Circuit Judges.

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*17; It was the sam three-year statutes of limitation that this cir. court of appeals cited in GLUS V. BROOKLYN EASTERN

Foot Note cont.

APPENDIX A 8a.

DISTRICT TERMINAL.369 U.S.231 cited,on p.9 of my brief and recited it again on my motion for re-hearing pointi ng to,exh. showing continuous fraud;in which the U.S SUPREME Court reversed in 1959.

*18;The cir. court of appeals judgement is duplicity and contradictory,as it claim on page 3a,that the forclosure took place in October 1990, and here again on page,7a it also claim that the forclosure action was in March 1990.Credible?

*20; It had been settled by U.S.Supreme Court the prooving any case is left to depsition stage pursunt to Fed.R.Civ.P. Rule 56,as cited in our brief and also,on motion for re-hearing citing N.Y.Times,as a bench-mark;and as in Anderson v.Liberty Lobby Inc.,477 U.S.242.

19;The suit was originally started by filing claim with NYC.Comptroller,commenced on April 8th 1993,and brought to district along with the suit.

THE END OF THE CHAPTER.

APPENDIX B- MEMORANDUM ORDER OF THE UNITED STATES DISTRICT COURT FOR THE EASTERN *1DISTRICT OF NEW YORK FILED DECEMBER 16,1996

Case No. 93-2228 (FB.)

UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF NEW YORK
@@@@@@@@@@@@@@@@@@@@@@@@@@@@@@@@@@@@X

SYLVESTER O. ABIDEKUN,

Plaintiff

-against-

DEPARTMENT OF HOUSING PRESERVATION & DEVELOPMENT,DEPARTMENT OF GENERAL SERVICES, DEPARTMENT OF ENVIRONMENTAL PROTECTION, DEPARTMENT OF HIGHWAYS & DEPARTMENT OF FINANCE,ALL OF THE CITY OF NEW YORK.

Defendants.

@@X

Appearances:
For Plaintiff:
Wayne Palma, Esqr.
Law Offices of
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New York,N.Y.10013
Sylvester O. Abidekun(Pro-Se)
959 Wyckoff Ave.
c/o P.O.Box 210378
Brooklyn,N.Y.11221

For Defendants:
Paul A. Crotty, Esqr.
Corp.Counsel CNY.
By Michael Adler,Esq.
100 Church St.
New York NY.10007.

BLOCK, District Judge:

Presently before the Court is Plaintiff's prose se motion to"Vacate Judgement,and Recusal," pursuant to Rules 59(a),(b)&(e) of the Fed.Rules of Civ.Proc. and 28 U.S.C.§ 144. In light of the Second Circuit's dismissal of his appeals by summary order dated November 22, 1996,the motion*2; id denied as moot.

Dated: Brooklyn,New York
December 16,1996.

SO ORDERED:
S/S F.Block.
United States Dist.Judge.

APPENDIX C- MEMORANDUM AND ORDER OF UNITE STATES DISTRICT COURT EASTERN DISTRICT,OF NEW YORK FILED FEBRUARY 16,1996.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
@@@@@@@@@@@@@@@@@@@@@@@@@@@@@@@@@@@@

CIVL ACTION NO:93-2228.[S.J]/[FB].

SYLVESTER O. ABIDEKUN,

Plaintiff,

-against-

DEPARTMENT OF HOUSING PRESERVATION & DEV., DEPARTMENT OF GENERAL SERVICES,DEPARTMENT OF ENVIRONMENTAL PROTECTION,DEPARTMENT,OF HIGHWAYS,& DEPARTMENT OF FINANCE;ALL OF THE CITY OF NEW YORK.

Defendant.

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Since 1992, Abidekun either by himself,or with his co-plaintiff wife Oluwafunmbi, has commenced six civil actions,including the present one in the Eastern District,of New York.See Abidekun v.Commissioner of SOCIAL Services of the City of New York, 92 CV. 5287 ((Habeas corpus petition denied for lack of subject matter jurisdiction); Abidekun v. New York State Department,of Corrections,92 CV. 5710 (*2) (habeas corpus petition denied); Abidekun v.New York City Transit Authority, 93 CV. 5600 (pending employment discrimation action); Abidekun v. New York Board of Education,94 CV. 4308,(complaint dismissed for lack of subject matter jurisdiction and failure to state a claim for which relief can be granted)(*3).Abidekun V.The Mary Imogene Bassett Hospital,94 CV 4305 (pending wmployment discrimination action).After due consideration of the nature and substance of these actions,(*4)the manifold motions brought in respect thereto and Abidekun's incesant deployment of the federal proces,the time has come for the court to ORDER that Abidekun is Prohibited from bringing any further actions in the United States District Court for the E.D.N.Y.(*5), unless such proposed action are first reviewed and approved for filling by a U.S.Magistrate Judge. The Clerk of the Court is specifically direted not,to accept any further actions(*5) by Abidekun unless he receives the prior approval of a U.S.Magistrate Judge.

Dated: Brooklyn, N.Y. Feb. 16, 1996.

SO ORDERED

S/S. F. BLOCK (U.S.Dist. Judge.

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*2; This was the case that was thoroughly reviewed by judge S.Johnson,knew that appelant was entitled for relief for unwaranted entry but failed to grant relief after nealy three years before mandamus was made to U.S.Court of Appeal.

APPENDIX C- Foot Note Cont. 12a.

As to which case was then transferred to Judge F. Block;which he dismissed claiming New York State has fourth amendment violation redress in their court, which is the same U.S.Court of Appeals Cir.2 is also saying here in this case.

*3;This is also the case the same judge Block dismissed ex-parte without serving the plaintiffs and sua-sponte dismissed by U.S.Court of Appeals.

*4;What due consideration?This is a case reviewed for seventy two days by Judge Sterling Johnson to see the sufficiency before he ordered the respondent City agencies to respond but this judge had ran out of every excuses,but only diatribe, as his ORDER is in violation of the First,& Fourtenth Amend.to Constitution,our protected right to be heard when we are wronged,and to seek redress.

*5; Also the Civil Right legislation of 1866,1964 and 1991. and STAYING his ORDER will be sought in this certiorari and,his recusal.

THE END OF THE CHAPTER.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
@@@@@@@@@@@@@@@@@@@@@@@@@@@@@@@@@@@@X
SYLVESTER OLU ABIDEKUN
Plaintiff ORDER
VS. 93,CV.2228
DEPARTMENT OF HOUSUNG PRESER.& DEV.; [SJ.]
DEPARTMENT OF GENERAL SERVICES;
DEPARTMENT OF ENVIR.PROTECTION;
DEPARTMENT OF HIGHWAYS;AND,
DEPARTMENT OF FINANCE
Defendants
@@@@@@@@@@@@@@@@@@@@@@@@@@@@@@@@@@@@X

JOHNSON, United States District Judge,

Upon review of plaintiff's complaint and application to proceed in foma pauperis this Court cannot conclude on thr present record that this action is frivolous or malicious under the meaning of 28 US..§1915

Wherefore,it is ordered that plaintiff is granted leave to proceed without being required to prepay fees or costs,or give security thereof.

The Clerk is directed to forward,to the United Stats Marshal's office for,the Eastern District of New York copies of plaintiff's summons and complaint.The Marshal is directed serve the summons,andcomplaint upon the defendants without prepayment of fees.

SO ORDERED.

Dated: Brooklyn, New York
July 26, 1993

S/J.
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STERLING JOHNSON,U.S.D.J

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK 93 CV.2228.
@@@@@@@@@@@@@@@@@@@@@@@@@@@@@@@@X ORDER
SYLVESTER O. ABIDEKUN,
Plaintiff,
-against-
DEPARTMENT OF HOUSING PRES. & DEVELOPMENT;
DEPARTMENT OF GENERAL SERVICE OF CNY.et,al.
Defendants.
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APPEARANCES:

O. PETER SHERWOOD
Corp.Counsel for the City of New York
100 Church St, Rm. 4H12.
New York NY.10007.
By: Andrew Gelfand asst. Corp. counsel.

SYLVESTER O. ABIDEKUN
95 Wyckoff Avenue
Ridgeqood, New York,11385
Plaintiff Pro se.

JOHNSON, District Judge,
Plaintiff's application for appointment of counsel is hereby denied pending further development of facts.
SO ORDERED.

S/J.
++++++++++++++
U.S.D.J.

Dated: December 29, 1993
Brooklyn, New York

JOHNSON, District Judge,
The Order dated December 29,1993 contained typographical error as to Plaintiff's address and is hereby amended to reflect the correct address as "959 Wyckoff Avenue." A copy of this order,and the order of December 29,1993 shall be mailed to Mr.Abidekun to the correct 1*address
SO OREDERED.

S/J.

U.S.D.J.

Dated: January 3, 1994
Brooklyn, New York

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1* The error made by the Court was rectify after discovery by the judge.However,when Judge Frederick Block failed to serve,us the plaintiff in 94 CV.4308,as he listed it herein;that also came to U.S.Court of Appeals,after we discovered this case through Mr.Palma and contested that he didnot serve us even when the Court knew our current address and motion was made under Fed. R.of Appel.Proc.Rule 4(a)(6); which if it was an error on his part,the law warrant him to vacate such judgement and serve the plaintiffs;within 180 days in order to Appeals but he refused and stated case closed. Such outright denial is another proof he never wanted to serve us the plaintiffs and his not serving plaintiffs was intentional so that we can't;appeal under which both the court of Appeals and the district judge showed BIAS and Prejudice, hence he should be recused.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK.
@@X
SYLVESTER O. ABIDEKUN,
Plaintiff, 93 CV.2228
-against- ORDER
DEPARTMENT OF HOUSING AND DEVELOPMENT;et,al
defendants
@@@@@@@@@@@@@@@@@@@